



General Assembly

January Session, 2011

Amendment

LCO No. 7297

SB0088207297SD0

Offered by:

SEN. SLOSSBERG, 14th Dist.

REP. MORIN, 28th Dist.

To: Subst. Senate Bill No. 882

File No. 599

Cal. No. 368

**"AN ACT CONCERNING THE STATE SET-ASIDE PROGRAM,
FILING REQUIREMENTS OF STATE CONTRACTORS, AND
EVALUATION OF CONTRACTORS AND SUBCONTRACTORS."**

1 Strike everything after the enacting clause and substitute the
2 following in lieu thereof:

3 "Section 1. Section 1-101qq of the general statutes is repealed and the
4 following is substituted in lieu thereof (*Effective October 1, 2011*):

5 (a) A state agency or institution or quasi-public agency that is
6 seeking a contractor for a large state construction or procurement
7 contract shall provide the summary of state ethics laws developed by
8 the Office of State Ethics pursuant to section 1-81b to any person
9 seeking a large state construction or procurement contract. Such
10 person shall [promptly] affirm to the agency or institution, in writing
11 or electronically, (1) receipt of such summary, and (2) that key
12 employees of such person have read and understand the summary and

13 agree to comply with the provisions of state ethics law. After the initial
14 submission of such affirmation, such person shall not be required to
15 resubmit such affirmation unless there is a change in the information
16 contained in the affirmation. If there is any change in the information
17 contained in the most recently filed affirmation, such person shall
18 submit an updated affirmation either (A) not later than thirty days
19 after the effective date of any such change, or (B) upon the submittal of
20 any new bid or proposal, whichever is earlier. No state agency or
21 institution or quasi-public agency shall accept a bid or proposal for a
22 large state construction or procurement contract without such
23 affirmation.

24 (b) [Each] Prior to entering into a contract with any subcontractors
25 or consultants, each large state construction or procurement contractor
26 shall (1) provide the summary of state ethics laws described in
27 subsection (a) of this section to all subcontractors and consultants, and
28 (2) obtain an affirmation from each subcontractor and consultant that
29 such subcontractor and consultant has received such summary and
30 key employees of such subcontractor and consultant have read and
31 understand the summary and agree to comply with its provisions. The
32 contractor shall provide such affirmations to the state agency,
33 institution or quasi-public agency not later than fifteen days after the
34 request of such agency, institution or quasi-public agency for such
35 affirmation. Failure to submit such affirmations in a timely manner
36 shall be cause for termination of the large state construction or
37 procurement contract.

38 (c) Each contract with a contractor, subcontractor or consultant
39 described in subsection (a) or (b) of this section shall incorporate such
40 summary by reference as a part of the contract terms.

41 Sec. 2. Section 4-252 of the general statutes is repealed and the
42 following is substituted in lieu thereof (*Effective October 1, 2011*):

43 (a) On and after July 1, 2006, no state agency or quasi-public agency
44 shall execute a large state contract unless the state agency or quasi-
45 public agency obtains the written [certifications] or electronic

46 certification described in this section. Each such certification shall be
47 sworn as true to the best knowledge and belief of the person signing
48 the certification, subject to the penalties of false statement. If there is
49 any change in the information contained in the most recently filed
50 certification, such person shall submit an updated certification either
51 (1) not later than thirty days after the effective date of any such change,
52 or (2) upon the submittal of any new bid or proposal for a large state
53 contract, whichever is earlier. Such person shall also submit to the state
54 agency or quasi-public agency an accurate, updated certification not
55 later than fourteen days after the twelve-month anniversary of the
56 most recently filed certification or updated certification.

57 (b) The official or employee of such state agency or quasi-public
58 agency who is authorized to execute [said contract] state contracts
59 shall certify that the selection of the most qualified or highest ranked
60 person, firm or corporation was not the result of collusion, the giving
61 of a gift or the promise of a gift, compensation, fraud or inappropriate
62 influence from any person.

63 (c) [The official] Any principal or key personnel of the person, firm
64 or corporation [awarded the contract, who is authorized to execute the
65 contract,] submitting a bid or proposal for a large state contract shall
66 certify:

67 (1) That no gifts were made [between the date that the state agency
68 or quasi-public agency began planning the project, services,
69 procurement, lease or licensing arrangement covered by the contract
70 and the date of execution of the contract,] by (A) such person, firm,
71 corporation, (B) any principals and key personnel of the person, firm
72 or corporation, who [participated] participate substantially in
73 preparing [the bid or proposal or the negotiation of the contract] bids,
74 proposals or negotiating state contracts, or (C) any agent of such
75 person, firm, corporation or principals and key personnel, who
76 [participated] participates substantially in preparing [the bid or
77 proposal or the negotiation of the contract] bids, proposals or
78 negotiating state contracts, to (i) any public official or state employee
79 of the state agency or quasi-public agency soliciting bids or proposals

80 for [the contract] state contracts, who [participated] participates
81 substantially in the preparation of [the] bid [solicitation or request]
82 solicitations or requests for proposals for [the contract] state contracts
83 or the negotiation or award of [the contract] state contracts, or (ii) any
84 public official or state employee of any other state agency, who has
85 supervisory or appointing authority over such state agency or quasi-
86 public agency;

87 (2) That no such principals and key personnel of the person, firm or
88 corporation, or agent of such person, firm or corporation or principals
89 and key personnel, knows of any action by the person, firm or
90 corporation to circumvent such prohibition on gifts by providing for
91 any other principals and key personnel, official, employee or agent of
92 the person, firm or corporation to provide a gift to any such public
93 official or state employee; and

94 (3) That the person, firm or corporation [made the bid or proposal]
95 is submitting bids or proposals without fraud or collusion with any
96 person.

97 (d) Any bidder or proposer that does not make the [certifications]
98 certification required under [subsection (c) of] this section shall be
99 disqualified and the state agency or quasi-public agency shall award
100 the contract to the next highest ranked proposer or the next lowest
101 responsible qualified bidder or seek new bids or proposals.

102 (e) Each state agency and quasi-public agency shall include in the
103 bid specifications or request for proposals for a large state contract [(1)
104 the date that the state agency or quasi-public agency began planning
105 the project, services, procurement, lease or licensing arrangement to be
106 covered by the contract, and (2)] a notice of the certification
107 requirements of [subsections (c) and (d) of] this section.

108 Sec. 3. Subsection (c) of section 4a-60 of the general statutes is
109 repealed and the following is substituted in lieu thereof (*Effective*
110 *October 1, 2011*):

111 (c) (1) [Prior to entering into a contract] Any contractor who has one
112 or more contracts with the state or a political subdivision of the state
113 that is valued at less than fifty thousand dollars for each year of the
114 contract [, the contractor] shall provide the state or such political
115 subdivision of the state with a written or electronic representation that
116 complies with the nondiscrimination agreement and warranty under
117 subdivision (1) of subsection (a) of this section, provided if there is any
118 change in such representation, the contractor shall provide the
119 updated representation to the state or such political subdivision not
120 later than thirty days after such change.

121 (2) [Prior to entering into a contract] Any contractor who has one or
122 more contracts with the state or a political subdivision of the state that
123 is valued at fifty thousand dollars or more for any year of the contract
124 [, such contractor] shall provide the state or such political subdivision
125 of the state with any one of the following:

126 (A) Documentation in the form of a company or corporate policy
127 adopted by resolution of the board of directors, shareholders,
128 managers, members or other governing body of such contractor that
129 complies with the nondiscrimination agreement and warranty under
130 subdivision (1) of subsection (a) of this section;

131 (B) Documentation in the form of a company or corporate policy
132 adopted by a prior resolution of the board of directors, shareholders,
133 managers, members or other governing body of such contractor if (i)
134 the prior resolution is certified by a duly authorized corporate officer
135 of such contractor to be in effect on the date the documentation is
136 submitted, and (ii) the head of the agency of the state or such political
137 subdivision, or a designee, certifies that the prior resolution complies
138 with the nondiscrimination agreement and warranty under
139 subdivision (1) of subsection (a) of this section; or

140 (C) Documentation in the form of an affidavit signed under penalty
141 of false statement by a chief executive officer, president, chairperson or
142 other corporate officer duly authorized to adopt company or corporate
143 policy that certifies that the company or corporate policy of the

144 contractor complies with the nondiscrimination agreement and
145 warranty under subdivision (1) of subsection (a) of this section and is
146 in effect on the date the affidavit is signed.

147 (3) Neither the state nor any political subdivision shall award a
148 contract to a contractor who has not provided the representation or
149 documentation required under subdivisions (1) and (2) of this
150 subsection, as applicable. After the initial submission of such
151 representation or documentation, the contractor shall not be required
152 to resubmit such representation or documentation unless there is a
153 change in the information contained in such representation or
154 documentation. If there is any change in the information contained in
155 the most recently filed representation or updated documentation, the
156 contractor shall submit an updated representation or documentation,
157 as applicable, either (A) not later than thirty days after the effective
158 date of such change, or (B) upon the execution of a new contract with
159 the state or a political subdivision of the state, whichever is earlier.
160 Such contractor shall also certify, in accordance with subparagraph (B)
161 or (C) of subdivision (2) of this subsection, to the state or political
162 subdivision, not later than fourteen days after the twelve-month
163 anniversary of the most recently filed representation, documentation
164 or updated representation or documentation, that the representation
165 on file with the state or political subdivision is current and accurate.

166 Sec. 4. Subsection (b) of section 4a-60a of the general statutes is
167 repealed and the following is substituted in lieu thereof (*Effective*
168 *October 1, 2011*):

169 (b) (1) [Prior to entering into a contract] Any contractor who has one
170 or more contracts with the state or a political subdivision of the state
171 that is valued at less than fifty thousand dollars for each year of the
172 contract [, the contractor] shall provide the state or such political
173 subdivision of the state with a written representation that complies
174 with the nondiscrimination agreement and warranty under
175 subdivision (1) of subsection (a) of this section.

176 (2) [Prior to entering into a contract] Any contractor who has one or

177 more contracts with the state or a political subdivision of the state that
178 is valued at fifty thousand dollars or more for any year of the contract
179 [, such contractor] shall provide the state or such political subdivision
180 of the state with any of the following:

181 (A) Documentation in the form of a company or corporate policy
182 adopted by resolution of the board of directors, shareholders,
183 managers, members or other governing body of such contractor that
184 complies with the nondiscrimination agreement and warranty under
185 subdivision (1) of subsection (a) of this section;

186 (B) Documentation in the form of a company or corporate policy
187 adopted by a prior resolution of the board of directors, shareholders,
188 managers, members or other governing body of such contractor if (i)
189 the prior resolution is certified by a duly authorized corporate officer
190 of such contractor to be in effect on the date the documentation is
191 submitted, and (ii) the head of the agency of the state or such political
192 subdivision, or a designee, certifies that the prior resolution complies
193 with the nondiscrimination agreement and warranty under
194 subdivision (1) of subsection (a) of this section; or

195 (C) Documentation in the form of an affidavit signed under penalty
196 of false statement by a chief executive officer, president, chairperson or
197 other corporate officer duly authorized to adopt company or corporate
198 policy that certifies that the company or corporate policy of the
199 contractor complies with the nondiscrimination agreement and
200 warranty under subdivision (1) of subsection (a) of this section and is
201 in effect on the date the affidavit is signed.

202 (3) Neither the state nor any political subdivision shall award a
203 contract to a contractor who has not provided the representation or
204 documentation required under subdivisions (1) and (2) of this
205 subsection, as applicable. After the initial submission of such
206 representation or documentation, the contractor shall not be required
207 to resubmit such representation or documentation unless there is a
208 change in the information contained in such representation or
209 documentation. If there is any change in the information contained in

210 the most recently filed representation or updated documentation, the
211 contractor shall submit an updated representation or documentation,
212 as applicable, either (A) not later than thirty days after the effective
213 date of such change, or (B) upon the execution of a new contract with
214 the state or a political subdivision of the state, whichever is earlier.
215 Such contractor shall also certify, in accordance with subparagraph (B)
216 or (C) of subdivision (2) of this subsection, to the state or political
217 subdivision, not later than fourteen days after the twelve-month
218 anniversary of the most recently filed representation, documentation
219 or updated representation or documentation, that the representation
220 on file with the state or political subdivision is current and accurate.

221 [(3)] (4) For the purposes of this section, "contract" includes any
222 extension or modification of the contract, and "contractor" includes any
223 successors or assigns of the contractor. For the purposes of this section,
224 "contract" does not include a contract where each contractor is (A) a
225 political subdivision of the state, including, but not limited to, a
226 municipality, (B) a quasi-public agency, as defined in section 1-120, (C)
227 any other state, as defined in section 1-267, (D) the federal government,
228 (E) a foreign government, or (F) an agency of a subdivision, agency,
229 state or government described in subparagraph (A), (B), (C), (D) or (E)
230 of this subdivision.

231 Sec. 5. Section 4a-81 of the general statutes is repealed and the
232 following is substituted in lieu thereof (*Effective October 1, 2011*):

233 (a) [On and after July 13, 2005, no] No state agency or quasi-public
234 agency shall execute a contract for the purchase of goods or services,
235 which contract has a total value to the state of fifty thousand dollars or
236 more in any calendar or fiscal year, unless the state agency or quasi-
237 public agency obtains the [written] affidavit described in subsection (b)
238 of this section.

239 (b) (1) [The chief official of the bidder or vendor awarded] Any
240 principal or key personnel of a person, firm or corporation who submit
241 bids or proposals for a contract described in subsection (a) of this
242 section [or the individual awarded such contract who is authorized to

243 execute such contract,] shall attest in an affidavit as to whether any
244 consulting agreement has been entered into in connection with any
245 such contract. Such affidavit shall be required if any duties of the
246 consultant included communications concerning business of [such] a
247 state or quasi-public agency, whether or not direct contact with a state
248 agency, state or public official or state employee was expected or
249 made. As used in this section "consulting agreement" means any
250 written or oral agreement to retain the services, for a fee, of a
251 consultant for the purposes of (A) providing counsel to a contractor,
252 vendor, consultant or other entity seeking to conduct, or conducting,
253 business with the state, (B) contacting, whether in writing or orally,
254 any executive, judicial, or administrative office of the state, including
255 any department, institution, bureau, board, commission, authority,
256 official or employee for the purpose of solicitation, dispute resolution,
257 introduction, requests for information, or (C) any other similar activity
258 related to such [contract. Consulting agreement] contracts. "Consulting
259 agreement" does not include any agreements entered into with a
260 consultant who is registered under the provisions of chapter 10 as of
261 the date such affidavit is submitted in accordance with the provisions
262 of this section.

263 (2) Such affidavit shall be sworn as true to the best knowledge and
264 belief of the person signing the certification on the affidavit and shall
265 be subject to the penalties of false statement.

266 (3) Such affidavit shall include the following information for each
267 consulting agreement listed: The name of the consultant, the
268 consultant's firm, the basic terms of the consulting agreement, a brief
269 description of the services provided, and an indication as to whether
270 the consultant is a former state employee or public official. If the
271 consultant is a former state employee or public official, such affidavit
272 shall indicate his or her former agency and the date such employment
273 terminated.

274 [(4) Such affidavit shall be amended whenever the bidder or vendor
275 awarded the contract enters into any new consulting agreement during
276 the term of such contract.]

277 (4) After the initial submission of such affidavit, the principal or key
278 personnel of the person, firm or corporation shall not be required to
279 resubmit such affidavit unless there is a change in the information
280 contained in such affidavit. If there is any change in the information
281 contained in the most recently filed affidavit required under this
282 section, the principal or key personnel of a person, firm or corporation
283 who submit bids or proposals for a contract described in subsection (a)
284 of this section shall submit an updated affidavit either (A) not later
285 than thirty days after the effective date of any such change, or (B) upon
286 the submittal of any new bid or proposal, whichever is earlier.

287 (c) Each state agency and quasi-public agency shall include a notice
288 of the affidavit requirements of this section in the bid specifications or
289 request for proposals for any contract that is described in subsection
290 (a) of this section.

291 (d) In the event that a bidder or vendor refuses to submit the
292 affidavit required under subsection (b) of this section, such bidder or
293 vendor shall be disqualified and the state agency or quasi-public
294 agency shall award the contract to the next highest ranked vendor or
295 the next lowest responsible qualified bidder or seek new bids or
296 proposals.

297 Sec. 6. Subsection (d) of section 4a-100 of the general statutes is
298 repealed and the following is substituted in lieu thereof (*Effective*
299 *October 1, 2011*):

300 (d) [The applicant] Each applicant shall include a statement of
301 financial condition prepared by a certified public accountant [which]
302 that includes information concerning the applicant's assets and
303 liabilities, [plant and equipment, bank and credit references,] except if
304 the applicant has been accepted into the bonding program of a
305 certified community development financial institution, the applicant
306 need only provide the financial documents required by such
307 institution for the applicant to qualify for such program. Each
308 applicant shall provide a bonding company [and maximum] letter
309 stating the aggregate work capacity and single project limit bonding

310 capacity of the applicant, and other information as the commissioner
311 deems relevant to an evaluation of the applicant's financial capacity
312 and responsibility. For purposes of this subsection, "certified
313 community development financial institution" means a community
314 development bank, credit union or loan or venture capital fund that
315 provides financial products and services in economically distressed
316 markets and that is certified by the Certified Development Financial
317 Institution Fund of the United States Department of the Treasury.

318 Sec. 7. Section 4a-60g of the general statutes is repealed and the
319 following is substituted in lieu thereof (*Effective October 1, 2011*):

320 (a) As used in this section and sections 4a-60h to 4a-60j, inclusive,
321 the following terms have the following meanings:

322 (1) "Small contractor" means any contractor, subcontractor,
323 manufacturer, [or] service company or nonprofit corporation (A) that
324 [has been doing business under the same ownership or management
325 and has maintained] maintains its principal place of business in the
326 state, [for a period of at least one year immediately prior to the date of
327 application for certification under this section,] and (B) that had gross
328 revenues not exceeding fifteen million dollars in the most recently
329 completed fiscal year prior to such application. [, and (C) at least
330 fifty-one per cent of the ownership of which is held by a person or
331 persons who exercise operational authority over the daily affairs of the
332 business and have the power to direct the management and policies
333 and receive the beneficial interests of the business, except that a
334 nonprofit corporation shall be construed to be a small contractor if
335 such nonprofit corporation meets the requirements of subparagraphs
336 (A) and (B) of this subdivision] "Small contractor" does not include any
337 person who is affiliated with another person if both persons
338 considered together have a gross revenue exceeding fifteen million
339 dollars.

340 (2) "State agency" means each state board, commission, department,
341 office, institution, council or other agency with the power to contract
342 for goods or services itself or through its head.

343 (3) "Minority business enterprise" means any small contractor (A)
344 fifty-one per cent or more of the capital stock, if any, or assets of which
345 are owned by a person or persons (i) who exercise operational
346 authority over the daily affairs of the enterprise, (ii) who have the
347 power to direct the management and policies and receive the beneficial
348 interest of the enterprise, and (iii) who are members of a minority, as
349 such term is defined in subsection (a) of section 32-9n, (B) who is an
350 individual with a disability, or (C) which is a nonprofit corporation in
351 which fifty-one per cent or more of the persons who (i) exercise
352 operational authority over the enterprise, and (ii) have the power to
353 direct the management and policies of the enterprise are members of a
354 minority, as defined in this subsection, or are individuals with a
355 disability.

356 (4) "Affiliated" means the relationship in which a person directly, or
357 indirectly through one or more intermediaries, controls, is controlled
358 by or is under common control with another person.

359 (5) "Control" means the power to direct or cause the direction of the
360 management and policies of any person, whether through the
361 ownership of voting securities, by contract or through any other direct
362 or indirect means. Control shall be presumed to exist if any person,
363 directly or indirectly, owns, controls, holds with the power to vote, or
364 holds proxies representing, twenty per cent or more of any voting
365 securities of another person.

366 (6) "Person" means any individual, corporation, limited liability
367 company, partnership, association, joint stock company, business trust,
368 unincorporated organization or other entity.

369 (7) "Individual with a disability" means an individual (A) having a
370 physical or mental impairment that substantially limits one or more of
371 the major life activities of the individual, which mental impairment
372 may include, but is not limited to, having one or more mental
373 disorders, as defined in the most recent edition of the American
374 Psychiatric Association's "Diagnostic and Statistical Manual of Mental
375 Disorders", or (B) having a record of such an impairment.

376 (8) "Nonprofit corporation" means a nonprofit corporation
377 incorporated pursuant to chapter 602 or any predecessor statutes
378 thereto.

379 (b) It is found and determined that there is a serious need to help
380 small contractors, minority business enterprises, nonprofit
381 organizations and individuals with disabilities to be considered for
382 and awarded state contracts for the construction, reconstruction or
383 rehabilitation of public buildings, the construction and maintenance of
384 highways and the purchase of goods and services. Accordingly, the
385 necessity, in the public interest and for the public benefit and good, of
386 the provisions of this section, sections 4a-60h to 4a-60j, inclusive, and
387 sections 32-9i to 32-9p, inclusive, is declared as a matter of legislative
388 determination. Notwithstanding any provisions of the general statutes
389 to the contrary, and except as set forth herein, the head of each state
390 agency and each political subdivision of the state other than a
391 municipality shall set aside in each fiscal year, for award to small
392 contractors, on the basis of competitive bidding procedures, contracts
393 or portions of contracts for the construction, reconstruction or
394 rehabilitation of public buildings, the construction and maintenance of
395 highways and the purchase of goods and services. Eligibility of
396 nonprofit corporations under the provisions of this section shall be
397 limited to predevelopment contracts awarded by the Commissioner of
398 Economic and Community Development for housing projects. The
399 total value of such contracts or portions thereof to be set aside by each
400 such agency shall be at least twenty-five per cent of the total value of
401 all contracts let by the head of such agency in each fiscal year,
402 provided that neither: (1) A contract that may not be set aside due to a
403 conflict with a federal law or regulation; or (2) a contract for any goods
404 or services which have been determined by the Commissioner of
405 Administrative Services to be not customarily available from or
406 supplied by small contractors shall be included. Contracts or portions
407 thereof having a value of not less than twenty-five per cent of the total
408 value of all contracts or portions thereof to be set aside shall be
409 reserved for awards to minority business enterprises.

410 (c) The head of any state agency or political subdivision of the state
411 other than a municipality may, in lieu of setting aside any contract or
412 portions thereof, require any general or trade contractor or any other
413 entity authorized by such agency to award contracts, to set aside a
414 portion of any contract for subcontractors who are eligible for set-aside
415 contracts under this section. Nothing in this subsection shall be
416 construed to diminish the total value of contracts which are required to
417 be set aside by any state agency or political subdivision of the state
418 other than a municipality pursuant to this section.

419 (d) The heads of all state agencies and of each political subdivision
420 of the state other than a municipality shall notify the Commissioner of
421 Administrative Services of all contracts to be set aside pursuant to
422 subsection (b) or (c) of this section at the time that bid documents for
423 such contracts are made available to potential contractors.

424 (e) The awarding authority shall require that a contractor or
425 subcontractor awarded a contract or a portion of a contract under this
426 section perform not less than fifteen per cent of the work with the
427 workforces of such contractor or subcontractor and shall require that
428 not less than twenty-five per cent of the work be performed by
429 contractors or subcontractors eligible for awards under this section. A
430 contractor awarded a contract or a portion of a contract under this
431 section shall not subcontract with any person with whom the
432 contractor is affiliated. No person who is affiliated with another person
433 shall be eligible for awards under this section if both affiliated persons
434 considered together would not qualify as a small contractor or a
435 minority business enterprise under subsection (a) of this section. The
436 awarding authority shall require that a contractor awarded a contract
437 pursuant to this section submit, in writing, an explanation of any
438 subcontract to such contract that is entered into with any person that is
439 not eligible for the award of a contract pursuant to this section, prior to
440 the performance of any work pursuant to such subcontract.

441 (f) The awarding authority may require that a contractor or
442 subcontractor awarded a contract or a portion of a contract under this
443 section furnish the following documentation: (1) A copy of the

444 certificate of incorporation, certificate of limited partnership,
445 partnership agreement or other organizational documents of the
446 contractor or subcontractor; (2) a copy of federal income tax returns
447 filed by the contractor or subcontractor for the previous year; and (3)
448 evidence of payment of fair market value for the purchase or lease by
449 the contractor or subcontractor of property or equipment from another
450 contractor who is not eligible for set-aside contracts under this section.

451 (g) The awarding authority or the Commissioner of Administrative
452 Services or the Commission on Human Rights and Opportunities may
453 conduct an audit of the financial, corporate and business records and
454 conduct an investigation of any small contractor or minority business
455 enterprise which applies for or is awarded a set-aside contract for the
456 purpose of determining eligibility for awards or compliance with the
457 requirements established under this section.

458 (h) The provisions of this section shall not apply to any state agency
459 or political subdivision of the state other than a municipality for which
460 the total value of all contracts or portions of contracts of the types
461 enumerated in subsection (b) of this section is anticipated to be equal
462 to ten thousand dollars or less.

463 (i) In lieu of a performance, bid, labor and materials or other
464 required bond, a contractor or subcontractor awarded a contract under
465 this section may provide to the awarding authority, and the awarding
466 authority shall accept a letter of credit. Any such letter of credit shall
467 be in an amount equal to ten per cent of the contract for any contract
468 that is less than one hundred thousand dollars and in an amount equal
469 to twenty-five per cent of the contract for any contract that exceeds one
470 hundred thousand dollars.

471 (j) (1) Whenever the awarding authority has reason to believe that
472 any contractor or subcontractor awarded a set-aside contract has
473 wilfully violated any provision of this section, the awarding authority
474 shall send a notice to such contractor or subcontractor by certified
475 mail, return receipt requested. Such notice shall include: (A) A
476 reference to the provision alleged to be violated; (B) a short and plain

477 statement of the matter asserted; (C) the maximum civil penalty that
478 may be imposed for such violation; and (D) the time and place for the
479 hearing. Such hearing shall be fixed for a date not earlier than fourteen
480 days after the notice is mailed. The awarding authority shall send a
481 copy of such notice to the Commission on Human Rights and
482 Opportunities.

483 (2) The awarding authority shall hold a hearing on the violation
484 asserted unless such contractor or subcontractor fails to appear. The
485 hearing shall be held in accordance with the provisions of chapter 54.
486 If, after the hearing, the awarding authority finds that the contractor or
487 subcontractor has wilfully violated any provision of this section, the
488 awarding authority shall suspend all set-aside contract payments to
489 the contractor or subcontractor and may, in its discretion, order that a
490 civil penalty not exceeding ten thousand dollars per violation be
491 imposed on the contractor or subcontractor. If such contractor or
492 subcontractor fails to appear for the hearing, the awarding authority
493 may, as the facts require, order that a civil penalty not exceeding ten
494 thousand dollars per violation be imposed on the contractor or
495 subcontractor. The awarding authority shall send a copy of any order
496 issued pursuant to this subsection by certified mail, return receipt
497 requested, to the contractor or subcontractor named in such order. The
498 awarding authority may cause proceedings to be instituted by the
499 Attorney General for the enforcement of any order imposing a civil
500 penalty issued under this subsection.

501 (k) On or before January 1, 2000, the Commissioner of
502 Administrative Services shall establish a process for certification of
503 small contractors and minority business enterprises as eligible for
504 set-aside contracts. Each certification shall be valid for a period not to
505 exceed two years. Any paper application for certification shall be no
506 longer than six pages. The Department of Administrative Services shall
507 maintain on its web site an updated directory of small contractors and
508 minority business enterprises certified under this section.

509 (l) On or before August 30, 2007, and annually thereafter, each state
510 agency and each political subdivision of the state other than a

511 municipality setting aside contracts or portions of contracts shall
512 prepare a report establishing small and minority business set-aside
513 program goals for the twelve-month period beginning July first in the
514 same year. Each such report shall be submitted to the Commissioner of
515 Administrative Services, the Commission on Human Rights and
516 Opportunities and the cochairpersons and ranking members of the
517 joint standing committees of the General Assembly having cognizance
518 of matters relating to planning and development and government
519 administration and elections.

520 (m) On or before November 1, 1995, and quarterly thereafter, each
521 state agency and each political subdivision of the state other than a
522 municipality setting aside contracts or portions of contracts shall
523 prepare a status report on the implementation and results of its small
524 business and minority business enterprise set-aside program goals
525 during the three-month period ending one month before the due date
526 for the report. Each report shall be submitted to the Commissioner of
527 Administrative Services and the Commission on Human Rights and
528 Opportunities. Any state agency or political subdivision of the state,
529 other than a municipality, that achieves less than fifty per cent of its
530 small contractor and minority business enterprise set-aside program
531 goals by the end of the second reporting period in any twelve-month
532 period beginning on July first shall provide a written explanation to
533 the Commissioner of Administrative Services and the Commission on
534 Human Rights and Opportunities detailing how the agency or political
535 subdivision will achieve its goals in the final reporting period. The
536 Commission on Human Rights and Opportunities shall: (1) Monitor
537 the achievement of the annual goals established by each state agency
538 and political subdivision of the state other than a municipality; and (2)
539 prepare a quarterly report concerning such goal achievement. The
540 report shall be submitted to each state agency that submitted a report,
541 the Commissioner of Economic and Community Development, the
542 Commissioner of Administrative Services and the cochairpersons and
543 ranking members of the joint standing committees of the General
544 Assembly having cognizance of matters relating to planning and
545 development and government administration and elections. Failure by

546 any state agency or political subdivision of the state other than a
547 municipality to submit any reports required by this section shall be a
548 violation of section 46a-77.

549 [(n) On or before January 1, 2000, and annually thereafter, the
550 Department of Administrative Services shall establish a precertification
551 list of small contractors and minority business enterprises who have
552 established a principal place of business in the state but have not
553 maintained such place of business for one year and are not in the
554 directory prepared pursuant to subsection (k) of this section. An
555 awarding agency may select a small contractor or minority business
556 enterprise from such precertification list only after such awarding
557 agency makes a good faith effort to find an eligible small contractor or
558 minority business enterprise in the directory and determines that no
559 small contractor or minority business enterprise is qualified to perform
560 the work required under the contract.]

561 [(o)] (n) Nothing in this section shall be construed to apply to the
562 four janitorial contracts awarded pursuant to subsections (b) to (e),
563 inclusive, of section 4a-82.

564 Sec. 8. Subsection (e) of section 4a-101 of the general statutes is
565 repealed and the following is substituted in lieu thereof (*Effective*
566 *October 1, 2011*):

567 (e) No person, public agency, employee of a public agency or
568 certifying official of a public agency shall be held liable to any
569 contractor or subcontractor for any loss or injury sustained by such
570 contractor or subcontractor as the result of the completion of an
571 evaluation form, as required by this section or section 4a-100, as
572 amended by this act, unless such person, agency, employee or official
573 is found by a court of competent jurisdiction to have acted in a wilful,
574 wanton or reckless manner.

575 Sec. 9. (NEW) (*Effective from passage*) (a) On or before January 1,
576 2012, the Commissioner of Administrative Services, in consultation
577 with the Labor Commissioner, the president of The University of

578 Connecticut and the Commissioners of Public Works and
579 Transportation, or their designees, shall submit a report, in accordance
580 with the provisions of section 11-4a of the general statutes, to the
581 Governor and the joint standing committee of the General Assembly
582 having cognizance of matters relating to labor. Such report shall
583 include (1) an analysis of any law or economic factor that results in a
584 resident bidder being at a disadvantage to a nonresident bidder in
585 submitting the lowest responsible qualified bid, (2) the reason any
586 enacted law designed to give preference to state citizens for
587 employment on public works projects is not being enforced, and (3)
588 recommendations for administrative or legislative action, within the
589 confines of clause 3 of section 8 of article 1 of the United States
590 Constitution, to increase the number of state contracts awarded to
591 resident bidders through an in-state contract preference or otherwise.

592 (b) On or before July 1, 2012, the Commissioner of Administrative
593 Services shall develop and implement a program to increase the
594 number of state contracts awarded to resident bidders through an in-
595 state contract preference or other method selected by the
596 commissioner, provided such program shall not violate clause 3 of
597 section 8 of article 1 of the United States Constitution. In developing
598 such program, the commissioner shall consider the findings contained
599 in the report made in accordance with subsection (a) of this section.

600 Sec. 10. Section 4-251 of the general statutes is repealed. (*Effective*
601 *from passage*)"

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2011</i>	1-101qq
Sec. 2	<i>October 1, 2011</i>	4-252
Sec. 3	<i>October 1, 2011</i>	4a-60(c)
Sec. 4	<i>October 1, 2011</i>	4a-60a(b)
Sec. 5	<i>October 1, 2011</i>	4a-81
Sec. 6	<i>October 1, 2011</i>	4a-100(d)
Sec. 7	<i>October 1, 2011</i>	4a-60g
Sec. 8	<i>October 1, 2011</i>	4a-101(e)

Sec. 9	<i>from passage</i>	New section
Sec. 10	<i>from passage</i>	Repealer section